

1. The specific site is an appropriate location for such a use or uses in terms of overall community development: This site is an ideal location for child center

based home care; it has a child friendly neighborhood and offers easy access to Route 77 & Route 114.

2. The proposed use will not adversely affect the neighborhood and shall produce no significant reduction of real estate values in the neighboring area: The child home care I would offer will not adversely affect my neighborhood. My business hours will be Monday – Friday from 6 AM to 6 PM. I will not use any signs to mark my property or change the outside structure of the home.
3. The proposed use will not be a nuisance or serious hazard to vehicular traffic or pedestrians: The children will be cared for inside my home and under direct supervision on my property at all times.
4. The proposed use will not cause an undue burden on the Town through the provisions of basic Town services: There will be no additional requirements for any Town services.
5. Adequate off-street parking is provided if determined necessary by the Zoning Board of Adjustment: I have adequate off-street parking in the driveway and grass area in rear of home where the entrance of the home care will be located.
6. A buffer may be required to screen neighboring uses from the proposed use. Buffers may be fence screens, dense planting of suitable trees and shrubbery, or naturally occurring shrubs and trees: I currently have a treed lot that surrounds my property, which abuts an open space lot on the rear of my property. My home is barely visible to my closest neighbor and I am willing to comply with any requirements deemed by the Board.
7. The Zoning Board of Adjustment, in granting any special exception, may include such restrictions or conditions to insure compliance with this section: I will comply with any restrictions the Board feels necessary as well as comply with State licensing requirements.

Forrest Esenwine then asked how many years you anticipate being in business. Mr. Kasper stated he was unsure. Mr. Esenwine stated the reason he asks is the special exception is granted to the property and not the current owner. Jack Dearborn stated that this is a special exception not a variance. The seven conditions are really evaluated by this board and they would only get the level of what they are asking for. Any increase at all for the business would require a return trip to this board. Mr. Kurk asked how many square feet are in the basement. Mr. Kurk stated that the numbers given add up to 854 square feet indoors. Mr. Kasper stated the State requires you to have 40 square feet per child. Mr. Kurk inquired if none of the kids are going outside. Mr. Kasper stated that they could go outside to a screened in area under the deck, which is 12' x 19'. Mr., Kurk asked for details of the enclosure. Mr. Kasper responded that there will be a knee wall and then screened up from there. Malcolm Wright asked about changing the buffer

between the nearest neighbors. Mr. Kasper stated that they have no intention of doing any tree cutting.

Approving Abutters: NONE

Disapproving Abutters: Judy Donnelly, 55 Pine Hill Road, stated that she will have to object to this again. This is a residential zone. This is a business. They are talking about 15 cars twice a day. Her husband works second shift and would be trying to sleep during that time. She felt it was very unsafe in her mind. This is the wrong place.

Mr. Esenwine explained that day care facilities are allowed in the residential zone. Mrs. Donnelly stated that the traffic is an issue as she lives on the only straight stretch of Pine Hill. The cars go about 90 by their house, and adding 15 more cars to the existing traffic are wrong. Mr. Kurk asked what kinds of conditions could be imposed to reduce the risks she mentioned. Mrs. Donnelly responded she was not sure right now off the top of her head. She just thinks it is not right. She has been here since 1994 quietly. Malcolm Wright asked Mrs. Donnelly, so your main concern is traffic? Mrs. Donnelly responded yes.

Jack Dearborn wanted to get back to the point about zoning. We are discussing 5-15 children which is why they have to come before us. Whether there is a daycare there or not, they can already have 4 without being here. All we are here tonight for is to discuss the scale beyond 4 children, whether you like it or not. We need to discuss and focus on the special exception requirement of going between 5-15 kids. What would be prohibitive for 5-15 children? Mr. Esenwine is concerned about the driveway. Mr. Esenwine asked about the width of the current driveway. Mr. Kasper stated that it is probably 8 feet wide and it is long and steep and it is about 300 feet to the house. Mr. Esenwine felt the driveway is an issue and no two cars can pass each other.

Mr. Kasper rebutted the driveway is clear and they can park next to the driveway. Jack asked if the driveway is wide enough. Mr. Kasper stated that the traveled way is about 8 feet. Mr. Dearborn asked how much of the 350' is constrained to 8 feet. Mr. Kasper responded only the curve section of the driveway.

Other boards: NONE  
Public at Large: NONE

Vice Chairman McSweeney closed the public hearing at 8:23 PM

DISCUSSION: There was no further discussion regarding this request.

CASE DECISIONS: Neal Kurk moved to approve Case #0109 for the special exception with the following conditions:

1. the children in the center will not exceed 3 years of age
2. there will be not more than 15 children at the center
3. no signage on the road

4. hours will not exceed 6 AM – 6 PM Monday - Friday
5. State licensure shall be obtained before opening
6. children will be served inside the basement area not to exceed 850 and outside in a adjacent area under the existing deck not to exceed 250 SF
7. parking will be provided for 17 cars, each of which must have the ability to turn around without other vehicles being moved

Forrest Esenwine seconded the motion. Discussion: Mr. Kurk stated that he listed all the conditions they have stated in their application to make this work. He is requiring them to make a parking lot larger and there are many ways the applicant can figure this out. Nothing in this proposal addresses the abutter's real concern. As much as he would like to maintain the Town as it was when he came here the abutter has the right to use their property the way they are allowed. Traffic is the nature of living in a growing community. Mr. Esenwine stated with this motion precludes the children from being outside. Mr. Kurk agreed. Mr. Wright is still concerned about the passability of the length of the driveway, having two cars be able to pass each other. Mr. Kurk stated that we shouldn't have to make them put in a two lane driveway. Mr. Esenwine stated that he is still concerned about the driveway for safety reasons but Mr. Kurk's motion addresses it and he will certainly not oppose it. Mr. Wright would like to amend the previous motion and add a condition to it so the driveway is not bottled up so that two vehicles can pass safely, he would like to see fourteen (14) foot passable. Mr. Esenwine seconded Mr. Wright's amendment and agreed it is a safety issue, but is it reasonable? It is a long driveway. He would hate to have the situation arise that they have to get there for an emergency and they can't because of the cars. Mr. Kurk thinks that we have the authority to impose it but doesn't feel it is a good idea because he thinks it is important to encourage business but not to the extent it is costly.

Vote on the amendment to add Mr. Wright's condition: 2 in favor (Wright and Esenwine) and 3 opposed (Kurk, McSweeney and Dearborn) so the amendment fails.

Vote on the original motion as made by Mr. Kurk: 5 in favor (Kurk, Wright, McSweeney, Esenwine, and Dearborn).

#### **IV: OTHER BUSINESS:**

JANUARY 6, 2009 MINUTES: Forrest Esenwine moved to approve the January 6, 2009 minutes as amended; Neal Kurk seconded the motion, all in favor.

JOINT HEARING W/PLANNING BOARD: Naomi informed the board that she had received a request for a joint hearing with the Planning Board that is scheduled for Thursday, April 23, 2009. Naomi asked if everyone could make that meeting. Mr. Dearborn stated that he saw no reason to hold it as a joint meeting. The board's regular May meeting would only be two weeks later. RSA 676:2 gives the Zoning Board authority to vote as to whether to hold the joint meeting or not. Jack Dearborn moved to hold a joint hearing as requested by Stephen Pope for 409-007; Forrest Esenwine seconded the motion. Vote: 0 in favor and 4 opposed (Kurk, Wright, Esenwine and Dearborn) and 1 abstention (McSweeney).

REAPPOINTMENT OF MEMBERS: Naomi informed the board that Jack Dearborn, June Purington, Ian McSweeney and Elwood Stagakis terms are up. Mr. Dearborn, Mrs. Purington and Mr. McSweeney have indicated they would like to be reappointed for another 3 year term. Mr. Stagakis has not responded. Mr. McSweeney is the representative for Town of Weare for Southern NH Planning Commission and we would like to be reappointed for that as well. Mr. Kurk moved to recommend to the Board of Selectmen that Jack Dearborn; June Purington; and Ian McSweeney be reappointed for another 3 year term; Forrest Esenwine seconded the motion, all in favor.

**V. ADJOURNMENT:**

As there was no further business to come before the board, Forrest moved to adjourn the meeting at 8:55 PM; Neal Kurk seconded the motion, all in favor.

Respectfully submitted,

Naomi L. Bolton  
Land Use Coordinator